

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

SAN JUANITA VARGAS

Claimant

VS.

EXCEL CORPORATION

Respondent

Self-Insured

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Docket No. 202,975

ORDER

The application of claimant for review of the Award of Assistant Director David A. Shufelt, dated August 27, 1997, came on for consideration by the Workers Compensation Appeals Board.

APPEARANCES

Claimant appeared by and through her attorney, Chris A. Clements of Wichita, Kansas. Respondent, a qualified self-insured, appeared by and through its attorney, D. Shane Bangerter of Dodge City, Kansas. There were no other appearances.

RECORD AND STIPULATIONS

The record and stipulations as specifically set forth in the Award of the Assistant Director are herein adopted by the Appeals Board.

ISSUES

What is the nature and extent of claimant's injury and/or disability?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the whole evidentiary record filed herein, the Appeals Board makes the following findings of fact and conclusions of law:

The Appeals Board finds that the Award of the Assistant Director sets out findings of fact and conclusions of law in some detail and it is not necessary to repeat those herein. The findings and conclusions enumerated in the Award of the Assistant Director are both accurate and appropriate and the Appeals Board adopts same as its own findings and conclusions as if specifically set forth herein.

The medical evidence in the record consists of the testimony of Ernest R. Schlachter, M.D., and Pedro A. Murati, M.D. Dr. Schlachter had originally indicated that claimant sustained a 21 percent impairment of function of the body as a whole, but on cross examination the doctor admitted an error in calculation and assessed claimant a 14 percent functional impairment. Dr. Murati opined claimant had sustained a 12 percent impairment of function to the body as a whole as a result of her bilateral upper extremity injuries. The Assistant Director, in considering the opinions of the doctors, found claimant had suffered 13 percent permanent partial impairment of function to the body as a whole for the injury suffered on April 26, 1994. The Appeals Board, after reviewing the testimonies of Dr. Murati and Dr. Schlachter, finds that the opinion of the Assistant Director is appropriate and should be affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Assistant Director David A. Shufelt, dated August 27, 1997, should be, and is hereby affirmed and claimant is granted an Award against respondent, Excel Corporation, a qualified self-insured, for injuries sustained on April 26, 1994, for a 13 percent permanent partial general body disability.

Claimant is entitled to 2.42 weeks of temporary total disability compensation at the rate of \$252.43 per week for the amount of \$610.88, followed by 53.95 weeks permanent partial disability compensation at the rate of \$252.43 per week, totaling \$13,618.60 for a 13 percent permanent partial general body disability, making a total award of \$14,229.48, all of which is due and owing and ordered paid in one lump sum minus any amounts previously paid.

In all other regards the Order of the Assistant Director is herein affirmed insofar as it is not in contradiction to the orders expressed herein.

IT IS SO ORDERED.

Dated this ____ day of September 1997.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Chris A. Clements, Wichita, KS
D. Shane, Bangerter, Dodge City, KS
Kenneth S. Johnson, Administrative Law Judge
Philip S. Harness, Director